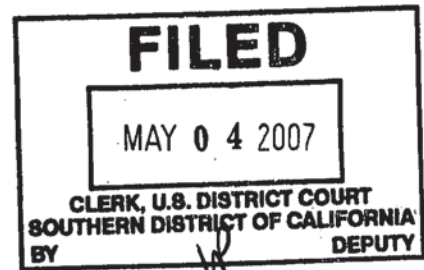




UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION



May 2, 2007

MICHAEL N. MILBY, Clerk
P.O. Drawer 2300
Galveston, TX 77553
(409) 766-3530

United States District Clerk
880 Front St.
Suite 4290
San Diego, CA 92101

In Re: C.A. 3:07cv3; Oswaldo Enrique Tobar, et al., v. United States of America

Enclosed is a certified copy of an order entered May 2, 2007, transferring the above case to your office. The case file can be accessed through the Electronic Case Filing/Pacer System for the Southern District of Texas at:

ecf.txsd.uscourts.gov

Please complete the receipt below and return the copy of this letter.

Sincerely,

MICHAEL N. MILBY, Clerk

'07 CV 0817 WQH (WMC)

BY: Marianne Gore
Deputy Clerk

Received and filed under Docket No.: _____ on _____

CLERK, U.S. DISTRICT COURT

BY: _____

CLOSED, TRANSFERRED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (Galveston)
CIVIL DOCKET FOR CASE #: 3:07-cv-00003
Internal Use Only**

Tobar et al v. United States of America
Assigned to: Judge Samuel B Kent
Cause: 28:1346 Tort Claim

Date Filed: 01/04/2007
Date Terminated: 05/02/2007
Jury Demand: None
Nature of Suit: 362 Personal Inj. Med.
Malpractice
Jurisdiction: U.S. Government
Defendant

Plaintiff

Oswaldo Enrique Tobar

represented by **Walter L Boyaki**
Miranda & Boyaki
4621 Persing Dr
El Paso, TX 79903
915-566-8688
Fax: 915-566-5906
Email: wboyaki@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Rosa Carmelina Zambrano Lucas

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Junior Ivan Pico Alava

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Segundo Matias Zambrano Alonzo

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Francisco Gabriel Yole Arteago

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY

MICHAEL N. MILBY, Clerk

By 

Deputy Clerk
5/2/2007

ATTORNEY TO BE NOTICED

Plaintiff

Fausto Lupercio Arias Castaneda

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Frabricio Bayron Ceden

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Joffre Johnny Ceden

represented by **Walter L Boyaki**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Lindon Cleofe Ceden

represented by **Walter L Boyaki**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Ramon Eliades Ramon Velez Ceden

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Daniel David Quimi Chalen

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pablo Eduardo Lucas Conforme

represented by **Walter L Boyaki**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Ramon Eduardo Pilligua Conforme

represented by **Walter L Boyaki**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Ciro Mariano Lopez Mero

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pedro Manuel Lopez Mero

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jose Eduardo Lucas Mero

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Luis Antonio Penafiel Mero

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pedro Jose Reyes Mero

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Telmo Arcadio Chica Obando

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Luis Miguel Cedeno Pico

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jaime Gustavo Palma Pinargote

represented by **Walter L Boyaki**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Yardy Klever Flores Segovia

represented by **Walter L Boyaki**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Pacho Hernandez Solorzano

represented by **Walter L Boyaki**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carlos Wilfrido Veliz Velez

represented by **Walter L Boyaki**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Carlos Orlando Velez Zambrano

represented by **Walter L Boyaki**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Jose Luis Zambrano Zambrano



represented by **Walter L Boyaki**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

United States of America

represented by **John Seely Luce, Jr**
 U. S. Dept. of Justice
 Admiralty and Aviation Litigation
 1425 New York Avenue
 Suite 10100
 Washington, DC 20005
 202-616-4035
 Fax: 202-616-4159
 Email: john.luce@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/04/2007	 <u>1</u>	COMPLAINT against United States of America (Filing fee \$ 350) filed by all plaintiffs.(mgore,) (Entered: 01/05/2007)
01/04/2007	 <u>2</u>	MOTION for Walter L. Boyaki to Appear Pro Hac Vice by all plaintiffs,

		filed. Motion Docket Date 1/24/2007. (Attachments: # <u>1</u> Proposed Order) (mgore,) (Entered: 01/05/2007)
01/05/2007	<u>3</u>	ORDER for Initial Pretrial and Scheduling Conference and Order to Disclose Interested Persons. Initial Conference set for 4/4/2007 at 09:20 AM before Judge Samuel B Kent.(Signed by Judge Samuel B Kent) Parties notified.(mgore,) (Entered: 01/05/2007)
01/05/2007	<u>4</u>	Summons Issued as to United States of America, filed.(mgore,) (Entered: 01/05/2007)
01/05/2007	<u>5</u>	Filing fee re: <u>1</u> Complaint : \$350.00, receipt number 320966, filed. (lusmith,) (Entered: 01/05/2007)
01/08/2007	<u>4</u>	ORDER re: computer codes printed on proposed orders.(Signed by Judge Samuel B Kent) Parties notified.(mgore,) (Entered: 01/08/2007)
01/10/2007	<u>5</u>	ORDER striking <u>2</u> MOTION for Walter L. Boyaki to Appear Pro Hac Vice. not in compliance w/ L.R. 7, etc.(Signed by Judge Samuel B Kent) Parties notified.(ceaton,) (Entered: 01/11/2007)
01/16/2007	<u>6</u>	CERTIFICATE OF INTERESTED PARTIES, filed.(ceaton,) (Entered: 01/17/2007)
03/02/2007	<u>7</u>	ANSWER to Complaint by United States of America, filed.(Luce, John) (Entered: 03/02/2007)
03/02/2007	<u>8</u>	MOTION to Change Venue to Southern District of California by United States of America, filed. Motion Docket Date 3/22/2007. (Attachments: # <u>1</u> Memorandum in Support of the United States' Motion to Transfer Venue# <u>2</u> Affidavit # <u>3</u> Proposed Order)(Luce, John) (Entered: 03/02/2007)
03/09/2007	<u>9</u>	CERTIFICATE OF INTERESTED PARTIES, filed.(Luce, John) (Entered: 03/09/2007)
03/14/2007	<u>10</u>	RESPONSE in Opposition to <u>8</u> MOTION to Change Venue to Southern District of California, filed by Oswaldo Enrique Tobar. (Boyaki, Walter) (Entered: 03/14/2007)
03/15/2007	<u>11</u>	RESPONSE in Opposition to <u>8</u> MOTION to Change Venue to Southern District of California, filed by Oswaldo Enrique Tobar. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u> # <u>5</u> # <u>6</u> # <u>7</u> # <u>8</u> # <u>9</u> # <u>10</u> # <u>11</u>)(Boyaki, Walter) (Entered: 03/15/2007)
03/20/2007	<u>12</u>	REPLY in Support of <u>8</u> MOTION to Change Venue to Southern District of California, filed by United States of America. (Attachments: # <u>1</u> Reply# <u>2</u> Affidavit)(Luce, John) (Entered: 03/20/2007)
03/22/2007	<u>13</u>	JOINT DISCOVERY/CASE MANAGEMENT PLAN by Oswaldo Enrique Tobar, filed.(Boyaki, Walter) (Entered: 03/22/2007)
04/04/2007	<u>14</u>	Minute Entry for proceedings held before Judge Samuel B Kent. SCHEDULING CONFERENCE held on 4/4/2007. Docket Control Order to be entered. Appearances: Walter L Boyaki, John Seely Luce, Jr.(Court

		Reporter: K. Metzger), filed.(mgore,) (Entered: 04/05/2007)
04/11/2007	14	SCHEDULING ORDER: Pltf Expert Witness List due by 10/2/2007 Deft Expert Witness List due by 11/9/2007 Discovery due by 12/30/2007 Joint Pretrial Order due by 1/4/2008 Pretrial Conference set for 1/11/2008 at 12:00 PM before Magistrate Judge John R Froeschner Bench Trial set for 1/14/2008 at 08:30 AM before Judge Samuel B Kent.(Signed by Judge Samuel B Kent) Parties notified.(mgore,) (Entered: 04/11/2007)
04/30/2007	15	ORDER TO TRANSFER CASE to Southern District of California; granting 8 MOTION to Change Venue to Southern District of California. (Signed by Judge Samuel B Kent) Parties notified.(mgore,) (Entered: 05/02/2007)
05/02/2007		Interdistrict transfer to Southern District of California. Certified copy of transfer order, certified docket sheet, and two copies of transfer letter (with a return envelope) sent by certified mail. Case terminated on May 2, 2007, filed. (mgore,) (Entered: 05/02/2007)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

OSWALDO ENRIQUE TOBAR, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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CIVIL ACTION NO. G-07-003


ORDER GRANTING DEFENDANT'S MOTION TO TRANSFER VENUE

Plaintiffs bring this action against the United States of America under the Federal Tort Claims Act, the Suits in Admiralty Act, and the Public Vessels Act. The United States of America filed a Motion to Transfer Venue to the Southern District of California, and Plaintiffs are opposed to the Motion. For the reasons articulated below, the United States' Motion to Transfer Venue to the Southern District of California is **GRANTED**.

I. Background and Analysis

Plaintiffs allege that, on or about October 5, 2005, the U.S. Coast Guard Law Enforcement Detachment, which was operating the USS MCCLUSKY, unlawfully and negligently stopped, searched, arrested, detained, and imprisoned Plaintiffs, seized their vessel, and destroyed the cargo and fish on board. The alleged unlawful search and seizure occurred in international waters off the Galapagos Islands and was allegedly conducted because Plaintiffs were suspected of smuggling and possessing illegal drugs.

The United States requests that the Court transfer this case to the Southern District of

TRUE COPY I CERTIFY
ATTEST:
MICHAEL N. MILBY, Clerk
By 
Deputy Clerk

California because the USS MCCLUSKY was physically located in its homeport, San Diego, on the date that the claim was filed. Under the Public Vessels Act, a claim may be filed against the United States, but the claim must be filed in the "district court of the United States for the district in which the vessel or cargo is found within the United States." Public Vessels Act, 46 U.S.C. § 31104(a); see *Sherman v. U.S.*, 246 F. Supp. 547 (W.D. Mich. 1965) (transferring a case from Michigan to Wisconsin when the vessel was moored in Wisconsin at the time the suit was filed, even though the incident giving rise to the suit occurred in Michigan).

Plaintiffs claim that they were aware that the USS MCCLUSKY's homeport was in the Southern District of California, but that they wanted to file the claim in the Southern District of Texas. Plaintiffs claim that Houston, Texas is the most convenient U.S. location for them. Plaintiffs are Ecuadorian Nationals, and there are allegedly economical nonstop flights from Ecuador to Houston each day. Plaintiffs claim that the only flights from Ecuador to San Diego stop through Houston.¹

Because Plaintiffs had a strong desire to litigate this matter in the Southern District of Texas, they claim that they tried to wait to file the claim until the USS MCCLUSKY was not in port so that the mandatory venue rules would not require them to litigate in San Diego. However, they were unable to obtain information from the U.S. Coast Guard regarding the USS MCCLUSKY's location. Plaintiffs claim that the phone calls they made inquiring about the vessel's location either went

¹Plaintiffs do not address flights to the relatively nearby, enormous Los Angeles International Airport. While a quick search on the internet reveals that there are no nonstop flights from Ecuador to Los Angeles International at this time, it is generally substantially less expensive to fly from Ecuador to Los Angeles than it is to fly to San Diego. Furthermore, on some dates, it is less expensive to fly from Ecuador to Los Angeles (with the stop) than to fly nonstop to Houston.

unanswered, or, when the calls were answered, Plaintiffs were told that the location of the USS MCCLUSKY could not be disclosed as a matter of national security.

Plaintiffs request that the Court disregard the United States' assertion that the USS MCCLUSKY was in port on the day in which the claim was filed under the doctrine of judicial or equitable estoppel. According to Plaintiffs, they had no choice but to rely on the actions of the agents of the United States, who refused to give them information. The Court finds that estoppel is not appropriate in this action. Plaintiffs did not rely on any assertions by the United States that the USS MCCLUSKY was not in port when it in actuality was. Rather, the United States did not give them any information about the location of the vessel. While Plaintiffs claim that the information was withheld under the "guise of national security," the Court finds that, particularly given the current state of national affairs, the United States was justified in withholding the vessel's location. This Court is not in the position to second guess the Executive Branch's invocation of heightened measures of security for the protection and well-being of U.S. vessels and their crews. Thus, the United States is not estopped from asserting that the USS MCCLUSKY was in port on the date in which this claim was filed.

II. Conclusion


The Court sympathizes with Plaintiffs' claims regarding their convenience and is tempted to retain the case in the interest of equity. Moreover, the case involves very interesting facts and applicable law. However, the United States is entitled to sovereign immunity, and, under the Public Vessels Act, its waiver of immunity is clearly and unambiguously limited and applies only when the case is litigated in the forum in which the vessel was found when the lawsuit was filed. Here, the vessel was in the Southern District of California when the claim was filed. Therefore, the United

States' Motion to Transfer to the Southern District of California must be and hereby is **GRANTED**.

This case is hereby **TRANSFERRED** to the Southern District of California pursuant to 28 U.S.C. § 1404. Any unresolved issues are respectfully deferred to the considered judgment of the transferee court. Each Party is to bear its own taxable costs and expenses incurred herein to date.

IT IS SO ORDERED.

DONE this 30th day of April, 2007, at Galveston, Texas.



Samuel B. Kent
United States District Judge

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Tobar, et al

DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF El Paso, TX

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Walter L. Boyaki
4621 Persing Dr.
El Paso, TX. 79903
915-566-8688

ATTORNEYS (IF KNOWN)

'07 CV 0817 WQH (WMC)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28:1346

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input checked="" type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(p)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☒ 5 Transferred from another district (specify) SOUTHERN DIST. OF TEXAS ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE

May 4, 2007

SIGNATURE OF ATTORNEY OF RECORD